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In re Application of :
Nishimura, et al. :
Application No. 10/764,555 :
Filed: January 27, 2004 :
Attorney Docket No. 392.1862 :

OFFICE OF PETITIONS

DECISION GRANTING PETITION

This is a decision on the petition filed July 7, 2004, to vacate the Notice of Omitted Items in Nonprovisional Application mailed June 14, 2004, in the above-cited application.

The petition is **granted**.

On January 27, 2004, the above-identified application was filed. However, on June 14, 2004, the Office of Initial Patent Examination mailed a "Notice of omitted Items in Nonprovisional Application" stating that application had been accorded a filing date of January 27, 2004, and advising applicant that page 8 of the specification appeared to have been omitted. The notice set a two-month period for reply.

In response, on July 7, 2004, applicant filed the present petition, a copy of page 8 of specification, and an Office date-stamped postcard receipt acknowledging receipt of 17 pages of the specification, claims, and abstract among other items.

Upon review of the record, page 8 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited January 27, 2004, included page 8, which was subsequently misplaced by the Office. Therefore, the application, including page 8 of the specification, was complete on filing and entitled to the presently accorded filing date of January 27, 2004.

Accordingly, the petition is granted; the Notice is vacated, accordingly.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 27, 2004, using the 17 pages of the specification filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010

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Petitions Attorney
Office of Petitions